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**FIRST GENERAL COUNSEL'S REPORT**

RAD REFERRAL: RR 10L-08  
DATE OF NOTIFICATION: June 9, 2010  
LAST RESPONSE RECEIVED: December 7, 2010  
DATE ACTIVATED: November 30, 2010

EXPIRATION OF SOL: January 31, 2015 (earliest)  
April 15, 2015 (latest)

**SOURCE:**

Internally Generated

**RESPONDENTS:**

Friends of Sharron Angle and Alan B. Mills, in his  
official capacity as treasurer

MUR 6305

DATE COMPLAINT FILED: June 2, 2010  
DATE OF NOTIFICATION: June 9, 2010  
LAST RESPONSE RECEIVED: July 30, 2010  
DATE ACTIVATED: November 30, 2010  
EPS: 1 / TIER: 70  
EXPIRATION OF SOL: January 31, 2015 (earliest)  
April 15, 2015 (latest)

**COMPLAINANT:**

Charles Tait Ecklund

**RESPONDENTS:**

Friends of Sharron Angle and Alan B. Mills, in his  
official capacity as treasurer  
Sharron E. Angle

**RELEVANT STATUTES:**

2 U.S.C. § 434(b)  
11 C.F.R. § 104.3(b)  
11 C.F.R. § 104.3(d)

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

1     **I. INTRODUCTION**

2           Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer, ("the  
3     Committee") is Sharron E. Angle's principal campaign committee for her 2009-2010 campaign  
4     for U.S. Senate in Nevada. *See* 2 U.S.C. § 431(4) and (5); *see also* Committee's FEC Form 1,  
5     Amended Statement of Organization filed August 19, 2010. In RR 10L-08, the Reports Analysis  
6     Division ("RAD"), referred the Committee for failing to disclose operating expenditures and  
7     debts in its 2009 Year-End Report in the amount of \$304,704.09, and in its 2010 April Quarterly  
8     Report in the amount of \$437,560.24. In MUR 6305, the complaint alleges that Sharron E.  
9     Angle and the Committee knowingly and willfully failed to disclose over \$90,000 in debts on its  
10    original 2009 Year-End Report. The alleged undisclosed debts in MUR 6305 are subsumed in  
11    RR 10L-08.

12           In its response to the complaint, the Committee acknowledges the reporting discrepancies,  
13    and states that the errors were inadvertent and subsequently corrected in its amended reports. In  
14    its response to the RAD Referral, the Committee also acknowledges the reporting discrepancies,  
15    cites certain mitigating factors, and requests pre-probable cause to believe conciliation. The  
16    available information does not suggest that the Committee's conduct was knowing and willful or  
17    that the candidate has any personal liability. Therefore, we recommend the Commission open a  
18    MUR in RR 10L-08 and merge it into MUR 6305, find reason to believe that Friends of Sharron  
19    Angle and Alan B. Mills, in his official capacity as treasurer, violated 2 U.S.C. § 434(b), enter  
20    into pre-probable cause to believe conciliation with the Committee, and

21   We further recommend that the Commission close the file as  
22    to Sharron E. Angle.

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1     **II.     FACTUAL AND LEGAL ANALYSIS**

2             **A.   Factual Background**

3                     **1.   RAD Referral 10L-08**

4             According to the RAD Referral, the Committee failed to report \$167,082.30 in  
5     expenditures and \$137,621.79 in debts on its original 2009 Year-End Report filed January 29,  
6     2010; and it failed to report \$270,352.28 in expenditures and \$167,207.96 in debts on its  
7     original 2010 April Quarterly Report filed on April 15, 2010. The Committee alleges in its  
8     response to the RAD Referral that the errors were due, in part, to its lack of knowledge about  
9     how to report activity related to vendor Base Connect ("BC"), with which the Committee has a  
10    contract to perform fundraising services and request contributions on behalf of the Committee  
11    ("direct mail prospecting activity"). Response, dated December 7, 2010, at 1. The Committee's  
12    treasurer, Mr. Mills, spoke with a RAD analyst by phone in October 2009 seeking guidance on  
13    reporting direct mail prospecting activity. *See* RR 10L-08 at 1-2. The Committee also  
14    contacted the Commission's Electronic Filing Office ("EFO") on May 7, 2010, for technical  
15    support, and per EFO's request, emailed the Committee's FECFile data file for troubleshooting.  
16    The EFO thereafter left three messages for the Committee, but received no answer.  
17    *See* RR 10L-08 at 2 and footnote 2.

18            The Committee originally filed its 2009 Year-End Report on January 29, 2010, and  
19    amended it on May 25, 2010, and again on September 1, 2010. The September 1, 2010,  
20    amended report, as compared to the originally filed 2009 Year-End Report, disclosed an  
21    additional \$272,726.87 in Line 17 Operating Expenditures, an additional \$137,621.79 in Line 10  
22    Debts and Obligations Owed by the Committee, and deleted \$105,644.57 in Line 21 Other  
23    Disbursements. *See* RR 10L-08 at Attachment 2.

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1 The Committee originally filed its 2010 April Quarterly Report on April 15, 2010, and  
2 amended it on May 26, 2010, and again on September 1, 2010. The September 1, 2010,  
3 amended report, as compared to the originally filed 2010 April Quarterly Report, disclosed an  
4 additional \$270,352.28 in Line 17 Operating Expenditures and an additional \$167,207.96 in Line  
5 10 Debts and Obligations Owed by the Committee. *See* RR 10L-08 at Attachment 3.

6 **a) April 6, 2010 Request for Additional Information**

7 On April 6, 2010, RAD sent a Request for Additional Information ("RFAI") to the  
8 Committee referencing the original 2009 Year-End Report and requesting clarification of the  
9 omission of debts that were disclosed on previous reports. Mr. Mills responded to RAD on  
10 behalf of the Committee by telephone on April 16, 2010, and May 10, 2010, as well as by letter  
11 dated May 9, 2010, and stated that the report was not complete for several reasons. *See* RR 10L-  
12 08 at 2; *see also* Committee Letter dated May 9, 2010, in response to April 6, 2010 RFAI. First,  
13 the Committee was waiting for transactional information from its vendor, BC. Second, the  
14 omitted debts referenced in the April 6, 2010, RFAI were entered into the database, but not  
15 displayed correctly on the report when it was printed. Third, Mr. Mills believed that the FECFile  
16 software had moved the debts reported on Line 10 to disbursements on Line 21 (Other  
17 Disbursements) in the 2009 Year-End Report, and in other reports. Finally, Mr. Mills stated that  
18 he was unclear on how to report activity on Line 10. *See* RR 10L-08 at 2-3.

19 **b) June 24, 2010 Requests For Additional Information**

20 On June 24, 2010, RAD sent two additional RFAs to the Committee. One RFAI  
21 referenced the Amended 2009 Year-End Report filed on May 25, 2010, and the other RFAI  
22 referenced the Amended 2010 April Quarterly Report filed on May 26, 2010. RR 10L-08 at 3  
23 and 5. In response to the RFAs, Mr. Mills stated that the activity was accurately disclosed on  
24 the amended reports and that the increases were due to the Committee not being aware that

1 certain disbursements to vendors needed to be reported. *Id.* The Committee thereafter hired a  
2 consultant to take over compliance. *Id.* at 3-4. On September 1, 2010, the Committee filed a  
3 second Amended 2009 Year-End Report and a second Amended 2010 April Quarterly Report.  
4 *Id.* at 4, 6. On October 14, 2010, RAD referred the matter to the Office of the General Counsel  
5 for further action.

6 **c) The Committee's Response to RAD Referral 10L-08**

7 In its response to the RAD Referral, the Committee attributes the discrepancies between  
8 its original and final amended 2009 Year-End and 2010 April Quarterly Reports to its lack of  
9 knowledge of how to report direct mail prospecting income, disbursements, and debts. *See*  
10 Response, dated December 7, 2010, at 1-2. The Committee also contends that the FECFile  
11 software provided little guidance on direct mail prospecting reporting. According to the  
12 response, the Committee filed its first set of amendments to the reports in May of 2010, because  
13 that is when Mr. Mills figured out how to report direct mail prospecting income, disbursements,  
14 and debts. *Id.* at 2. The Committee further amended the reports in September 2010 after more  
15 information was obtained and available. *Id.* at 3.

16 In addition, the Committee maintains that it did not have the resources during 2009 and  
17 the first half of 2010 to retain professional compliance software, vendors, consultants and  
18 counsel. Response, dated December 7, 2010, at 1. After winning the primary, however, the  
19 Committee retained professional assistance. *Id.* In addition, the Committee states that it had  
20 computer software problems; that RAD analysts were limited to answering compliance  
21 questions, not software issues; and that the FECFile software manual did not cover direct mail  
22 prospecting. *Id.* at 2.

1 Further, the Committee maintains that Mr. Mills repeatedly returned calls to EFO, but  
2 was only able to leave voicemails, which EFO did not return.<sup>1</sup> Response, dated December 7,  
3 2010, at 2. Moreover, from October 2009 through August 2010, Mr. Mills was in contact with  
4 RAD via telephone calls seeking guidance as to how to report direct mail prospecting income,  
5 debts and disbursements, and advising RAD that the Committee was trying to obtain information  
6 from its vendor, BC, to complete its reports. *Id.* The Committee requests pre-probable cause to  
7 believe conciliation for the reporting violations, and consideration of the foregoing mitigating  
8 factors.

## 9 2. MUR 6305

10 The reporting discrepancies at issue in MUR 6305, the failure to itemize debts on its 2009  
11 Year-End Report, are included in those RAD identified in RR 10L-08. The complaint in MUR  
12 6305, which includes Sharron E. Angle as a respondent, alleges that the Committee's failure to  
13 report was knowing and willful because Ms. Angle "is a career politician who is experienced in  
14 campaign finance reporting, and even previously waged a failed campaign for US Congress, so is  
15 presumed to be familiar with FEC rules and reporting requirements." Complaint at 2. In its  
16 response to the complaint, the Committee maintains that it made inadvertent mistakes and  
17 corrected the debt reporting errors prior its receipt of the complaint. Response, dated July 30,  
18 2010, at 1. The Committee first amended its 2009 Year-End Report on May 25, 2010, following  
19 its receipt of an RFAI from RAD dated April 16, 2010, and before the complaint in MUR 6305

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<sup>1</sup> We obtained the technical support phone logs for the Committee from EFO. According to the logs, on May 7, 2010, Mr. Mills called requesting technical assistance regarding transactions on the Committee's 2009 Year-End Report, and the EFO asked Mr. Mills to email the data file so they could review the transactions. On May 25, 2010, the EFO left two messages for Mr. Mills. The first message on the morning of May 25, 2010, stated that EFO could not locate the data file he emailed previously and asked that he call EFO back. The second message from EFO on the afternoon of May 25, 2010, stated that EFO located the data file Mr. Mills emailed and requested that he call EFO back to discuss it. EFO left two other messages for Mr. Mills on May 27, 2010, and May 28, 2010, asking him to call the EFO for assistance regarding the data file he emailed previously. There is no record in the EFO logs of Mr. Mills returning the calls the EFO made to him on May 25, 27 or 28, 2010. The Committee's response to the RAD Referral states that Mr. Mills repeatedly returned calls to the EFO but he was only able to reach EFO's voicemails. It is unclear whether Mr. Mills left messages for the EFO. If Mr. Mills did return the calls but did not leave voicemail messages, those calls would not be reflected in the phone logs.

1 was filed. However, the 2009 Year-End Report was not fully corrected until the Committee filed  
2 a second amended report on September 1, 2010.

3 **B. Legal Analysis**

4 The Federal Election Campaign Act of 1971, as amended ("the Act") sets forth  
5 requirements for filing of reports for political committees. The treasurer of a political committee  
6 must file reports of all receipts and disbursements in accordance with the Act. 2 U.S.C.  
7 § 434(a)(1). In both election and non-election years, the principal campaign committee of a  
8 candidate for the Senate is required to file, in addition to other required reports, quarterly reports  
9 filed no later than the 15<sup>th</sup> day after the last day of each calendar quarter, and complete as of the  
10 last day of each calendar quarter. 2 U.S.C. § 434(a)(2)(A)(iii) and (B). Furthermore, the  
11 principal campaign committee of a candidate for Senate is required to file a year-end quarterly  
12 report, which shall be filed no later than January 31 of the following calendar year. *Id.* The  
13 reports shall disclose, *inter alia*, the amount and nature of outstanding debts and obligations  
14 owed by or to the political committee, as well as the total amount of all disbursements, including  
15 the appropriate itemizations, where required. 2 U.S.C. § 434(b)(4) and (b)(8); 11 C.F.R.  
16 § 104.3(b) and (d).

17 The Committee did not comply with the above reporting requirements when it failed to  
18 disclose: 1) \$167,082.30 in operating expenditures and \$137,621.79 in debts and obligations  
19 owed by the Committee in its original 2009 Year-End Report filed on January 29, 2010; and  
20 2) \$270,352.28 in operating expenditures and \$167,207.96 in debts and obligations owed by the  
21 Committee in its original 2010 April Quarterly Report filed on April 15, 2010. The Committee  
22 has amended those reports to disclose the previously omitted expenditures and debts and  
23 obligations. The violations do not appear to be knowing and willful because the Committee  
24 initiated efforts to obtain information on how to accurately report the operating expenditures and

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1 debts and obligations in connection with direct mail prospecting, and it apprised RAD of its  
2 efforts to obtain the information. The Committee does not dispute the reporting errors and  
3 omissions, and as noted before, it requests pre-probable cause to believe conciliation.

4 Based on the foregoing, we recommend that the Commission find reason to believe that  
5 Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer, violated  
6 2 U.S.C. § 434(b) and enter into pre-probable cause to believe conciliation with the Committee.  
7 Since the candidate has no liability for the reporting violations, we further recommend that the  
8 Commission find no reason to believe that Sharron E. Angle violated the Federal Election  
9 Campaign Act of 1971, as amended, or the Commission's regulations, and close the file as  
10 to her.

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IV. RECOMMENDATIONS

1. Open a MUR in RR 10L-08 and merge that MUR with MUR 6305.
2. Find reason to believe Friends of Sharron Angle and Alan B. Mills, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
3. Find no reason to believe Sharron E. Angle violated the Federal Election Campaign Act of 1971, as amended, or the Commission's regulations.
4. Approve the attached Factual and Legal Analysis.
- 5.
6. Approve the appropriate letters.

Christopher Hughey  
Acting General Counsel

BY:

Stephen A. Gura  
Stephen A. Gura  
Deputy Associate General Counsel for  
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Susan L. Lebeaux  
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2/28/11  
Date